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HUMAN RIGHTS OF INDIGENOUS PEOPLES

Report of the Working Group on Indigenous Populations on its seventeenth session
(Geneva, 26-30 July 1999)

Chairperson-Rapporteur: Ms. Erica-Irene A. Daes

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Introduction

Mandate

1. The creation of the Working Group on Indigenous Populations was proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 2 (XXXIV) of 8 September 1981, endorsed by the Commission on Human Rights in its resolution 1982/19 of 10 March 1982, and authorized by the Economic and Social Council in its resolution 1982/34 of 7 May 1982. In that resolution the Council authorized the Sub-Commission to establish annually a working group to meet in order to:

(a) Review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions and recommendations to the Sub-Commission, bearing in mind inter alia the conclusions and recommendations contained in the report of the Special Rapporteur of the Sub-Commission, Mr. José R. Martínez Cobo, entitled "Study of the problem of discrimination against indigenous populations" (E/CN.4/Sub.2/1986/7 and Add.1-4);

(b) Give special attention to the evolution of standards concerning the rights of indigenous populations, taking into account both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world.

2. Due to its comprehensive terms of reference, in addition to the review of developments and the evolution of standards, which are separate items on the Working Group's agenda, the Working Group has over the years considered a number of other substantial issues relating to indigenous peoples. In the light of the recommendation made by the Working Group at its sixteenth session (E/CN.4/Sub.2/1998/16, para. 164), the following items were added and included in the provisional agenda for the seventeenth session: "Indigenous peoples and their relationship to land"; "Indigenous peoples and health"; "Final report of the Special Rapporteur of the Sub-Commission on treaties, agreements and other constructive arrangements between States and indigenous populations"; "Permanent forum for indigenous people"; "International Decade of the World's Indigenous People"; "World Conference to Combat Racism and Racial Discrimination"; "Other matters".

3. In its resolution 1998/23, the Sub-Commission requested the Secretary-General to prepare an annotated agenda for the seventeenth session of the Working Group.

I. ORGANIZATION OF THE WORK OF THE SESSION

A. Attendance

4. In its decision 1998/109, the Sub-Commission decided on the following composition of the Working Group at its seventeenth session:

Mr. Miguel Alfonso Martínez, Mr. Volodymyr Boutkevitch, Ms. Erica-Irene Daes, Mr. El-Hadji Guissé and Mr. Ribot Hatano. The session was attended by Mr. Alfonso Martínez, Ms. Daes, Mr. Guissé, and Mr. Hatano. Mr. Boutkevitch was unable to attend.

5. Ms. Erica-Irene A. Daes was elected Chairperson-Rapporteur of the seventeenth session by acclamation.

6. The following 45 States Members of the United Nations were represented by observers: Algeria, Argentina, Australia, Austria, Bangladesh, Bolivia, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Guatemala, India, Indonesia, Italy, Japan, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mexico, Morocco, Myanmar, Nepal, Netherlands, New Zealand, Norway, Paraguay, Peru, Philippines, Russian Federation, South Africa, Spain, Sri Lanka, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

7. The observer Governments of Australia and Canada were represented by high-level governmental delegates. Senator John Herron, Minister for Aboriginal and Torres Strait Islander Affairs of Australia and Mr. Robert Watts, Assistant Deputy Minister, Department of Indian and Northern Affairs of Canada, attended the meetings and made statements.

8. The following non-member States were represented by observers: Holy See, Switzerland.

9. The following United Nations bodies and specialized agencies were also represented by observers: Department of Public Information, United Nations Economic Commission for Africa, United Nations Development Programme, United Nations Population Fund, Sub-Commission on the Promotion and Protection of Human Rights, International Labour Office, World Health Organization - UNAIDS, World Intellectual Property Organization, World Bank.

10. The following intergovernmental organizations was represented by an observer delegation: European Commission.

11. The following 30 non-governmental organizations in consultative status with the Economic and Social Council were represented by observers:

(a) Organizations of indigenous peoples

Aboriginal and Torres Strait Islander Commission, Consejo Indio de Sud América, Indian Law Resource Centre, Indian Movement "Tupaj Amaru", Indigenous World Association, International Indian Treaty Council, International Organization of Indigenous Resource Development, Inuit Circumpolar Conference, National Aboriginal and Islander Legal Service Secretariat, Napguana Association, Saami Council, Treaty Four.

(b) Other organizations

Academic Council on the United Nations System, Baha'i International Community, Centre UNESCO de Catalunya, Canadian Friends Service Committee, Centre International des Droits de la Personne et du Développement Economique,

Commission of the Churches on International Affairs of the World Council of Churches, Education International, International League for the Rights and Liberation of Peoples, International Movement against all Forms of Discrimination and Racism, International Service for Human Rights, International Work Group for Indigenous Affairs, Médecins sans Frontières, Minority Rights Group, Nord-Sud XXI, Shimin Gaikou Centre, Society for Threatened Peoples, Susila Dharma International Association, World University Service.

12. The following indigenous peoples' organizations and nations, as well as other organizations and groups, were represented at the seventeenth session and provided information to the Working Group with its consent:

Aboriginal Institute, Aboriginal Medical Service Co-op, Adivasi Socio Education and Cultural Association, Adivasi People, African Indigenous and Minority Peoples Organization (AIMPO), Agencia Internacional de Prensa Indigena (AIPIN), Ainu Association of Rera, Ainu Association of Sapporo, Ainu International Network, AIP in the Ryukyus/Uchinan-Chu, Akuitcho Territory Government, Akwesasne Mohawk Nation, All Bodo Students' Union (ABSU), All India Coordinating Forum of the Adivasi Indigenous Peoples, Altepetl Nahauas AC, American Indian Law Alliance, ANCAP - Tamaynut, Arctic Council Indigenous Peoples' Secretariat, Asamblea de Autoridades Zapotecas y Chinantecas de la Sierra (AZACHIS), Asamblea Nacional Indígena Plural por la Autonomía (ANIPA), Asia Indigenous Peoples Pact, Asociación Coordinadora de Comunidades Indígenas de El Salvador, Asociación Comunal Mapuche de Nueva Imperial, Asociación Indígena de la República Argentina, Asociación Interetnica de Desarrollo de la Selva Peruana, Asociación Nacional Indígena por la Autonomía, Asociación Tohil Morales de los Niños Mayas de Guatemala, Assembly of First Nations, Associacao das Mulheres Indigenas do Centro Oeste Paulista-Amico, Association de Soutien aux Nations Anerindiennes, Association des Chantiers Assaiss d'Echange Educatif et Culturel, Association of Indigeous Minorities of North of the Sakha Republic (Yakutia), Association of Indigenous People of the North Krasnoyarsk Territory of Siberia, Association pour la Promotion des Batwa (APB)/Femmes Masnabamdi, Association pour la Paix et les Droits de l'Homme, Association pour le Développement Global des Batwa du Rwanda, Association Protection Culture Touareg, Barabaig Community, Bawm Indigenous People Organization, Bearskin Lake First Nation, Big Trout Lake First Nation, Big Mountain Action Group, Borok People Human Rights Organisation, Caldwell First Nation, Canadian Indigenous Women's Resource Institute, Cape Cultural Heritage Development Council, Centre for Progress of Manipuri People, Centro de Estudios para el Estudiante y la Educación Mapuche (CEPEM-CDHIPDPI), Centro de Investigación y Capacitación Indígena, Chakma Circle, Cherokee Nation of Oklahoma, Cheyenne and Arapaho Tribes of Oklahoma, Chin Human Rights Organization, Chin Nation Council, Chirapaq, Centro de Culturas Indias, Chottanagpur Adivasi Sewa Samiti (CASS/MUNDA),Comisión de Asuntos Indígenas, Comisión Jurídica para el Autdesarrollo de los Pueblos Originarios Andinos, Comisión de Asuntos Indígenas del Gobierno del Estado de Michoacán, Comisión Jurídica de los Pueblos de Integración Tahuantinsuyana (COJPITA), Comité de Solidarité avec les Indiens des Amériques (CSIA), Comité Intertribal, Comité Social des Chagossiens, Comité Suisse de Soutien aux Chagossiens, Commission Amazighe Internationale pour le Développement et les Droits de l'Homme, Communauté des Autochtones Rwandais, Comunidad Aymara Ancomarca, Confederación de Nacionalidades Amazónicos del Perú (CONAP),

Consejo de Todas las Tierras-Mapuche, Consejo Indígena Popular de Oaxaca, Consejo Inter-Regional Mapuche, Consejo Nacional de Ayllus y Markas del Qullasuyu (CONAMAQ), Consultative Committee of Finno-Ugric Peoples, Coordinación de Organizaciones del Pueblo Maya de Guatemala, Coordination des Peuples d'Amérique Centrale et du Sud Picsa, Coordinadora de Organizaciones Indígenas de la Cuenca Amazonica (COICA), Cordillera Peoples Alliance, Country Council of Pokot, Defensoría Maya, Dupoto-e-Maa, Esan People Development Programme (EPDP), Escuela Maya de Derechos Humanos Ixim-Che, Esketeme First Nation, Ethnic Minority Rights Organisation of Africa, Federación Indígena y Campesina de Imbabura (FICI), Federación Nativa del Río Madre de Dios, Federation des Organisations Amerindiennes de Guyanne Française, First Peoples of the Kalahari, Fonds Mondial pour la Sauvegarde des Cultures Autochtones Commission Sibérie, For Mother Earth, Forest Peoples Programme, Foundation for Aboriginal and Islander Research Action (FAIRA), Friends of Nomads International (FONI), Friends of Peoples close to Nature (EPCN), Fundacion Naupaman, Grupo de Trabalho Missionario Evangelico (GTME), Hadza People, Haudenosaunee Nation, Hill Women's Federation, Hmong International Human Rights Watch, Human Rights and Environment Protection Association Nepal, Incomindios, Indian Confederation of Indigenous and Tribal Peoples, Indian Institute of Social Work, Indigenaj Dialogoj, Indigenous Information Network, Indigenous Peoples of the Africa Coordinating Committee (IPACC), Institute of Social Awareness, Instituto para el Resurgimiento Ancestral Indígena Salvadoreño, Instituto Queshawa Jujuymanta, International Alliance of the Indigenous and Tribal Peoples of the Tropical Forests, International Commission for the Rights of Aboriginal People, Jumma Peoples Link, Ka Lahui Hawai'i, Khoekhoegowab Curriculum Committee, Kipok Barabaig Programme, Kirat Koyu Rais' Uplifting Association, Kirat Rai Language and Literacy Council, L'Auravetl' An Indigenous Information Center, Land is Life, Lao Human Rights Council Inc., Law - The Palestinian Society for the Protection of Human Rights and the Environment-Bedouins Delegation, Lelio Basso International Foundation, Leonard Peltier Defense Committee, Lumad Mindanaw Peoples Federation (LMPF), Maa Development Association, Kenya, Manipur International Youth Centre, Maori Legal Service, Mapu Domuche Newen, Mapuche International Link, Mejlis of Crimean Tatar People, Mena Muria Foundation, Mi'Kmaq Robbins, Mohawk Nation, Mohawks of Kahnavake, Mouvement Culturel Berbere, Movimiento de la Juventud Kuna (MJK), Movimiento Indio Tawantinsuyu Mit-Peru, Na Koa Ikaika o Ka Lahui Hawaii, Naga People's Movement for Human Rights, Naga Students' Federation, Naga Womens Union, National Indigenous Working Group on Native Title, National Secretariat of Torres Strait Islander Organizations, Native Council of Port Heiden, Native Youth Movement, Nepal Federation of Nationalities, Nepal Indigenous Peoples Development and Information Service Center (NIRDISC), Nepal Taman Ghedung (NTG), Netherlands Centre for Indigenous Peoples, Ngatira Marae/Ngatira Lands Trust, Onondaga Nation, Organización Campesina Emiliano Zapata, Organización de Mujeres Aymaras del Kollasuyo (OMAK), Organisation for Survival of Il-Laikipiak - Indigenous Maasai Group, Initiatives (OSILIGI), Organización Tohil Morales de Los Niños Mayas de Guatemala, Pa-o Peoples' Liberation Organization, Pacific Concerns Resource Centre, Pagkakaisa Ng Aeta Ng Pinatubo, Inc, Paimiut Traditional Council, Parbattya Chattagram Samhati Samiti (JSS), Parlamento Indígena de América, Paul Nakoda Nation, Peabody Watch Arizona, Peoples' Democratic Front, Pimicikamak Cree Nation, Poor and Progress Assistance (PAPA), Program for Research and Development of Ogoni (PREDO), Regional 4 Aboriginal Health Council, Rehab Hope Fund, Inc., Rehoboth Baster, Rural Peoples Forum for Social Action, Russian Association of

Indigenous Peoples of the North (Raipon), Sachigo First Nation, Saddle Lake First Nation, Sengwer Cherengaany Cultural Group, Shuswap Nation Tribal Council and Interior Alliance, Siksika Disability Services, Sociedad para el Desarrollo Mapuche, Society of Zoram Vengtu, Solidarité Peuples Autochtones (SOPAM), South Zone Adivasi Forum, Southern Kalahari San Association, Sovereign Dineh Nation, Taller de Historia Andina (THOA), Tebtebba Foundation, Teton Sioux Nation Treaty Council, The Amerindian Action Movement of Guyana (TAAMOG), The Eastern Door, The Rainforest Foundation, The Sovereign Union, Tin Hinane, Towno Integrated Pastoralist Development Initiatives, Torres Strait Regional Authority, Tribal Welfare Society Assam Branch, Trinamul, Tununak Traditional Elders Council, Union of Ontario Indians (Anishinabek), United Bodo Nationalists Liberation Front (UBNLF), Watu Acción Indígena, Washitaw de Dugdahmoundyah, Working Circle Indians Today, Working Group of Indigenous Minorities in Southern Africa (WIMSA), World Bodo National Conference, World Indigenous Nations, World Sindhi Congress, Yankuihanahuak, Zemanahuac.

13. In addition to the above-mentioned participants, a number of individual scholars, human rights experts, human rights activists and defenders and observers attended the meetings. An unprecedented number of 971 persons attended the seventeenth session of the Working Group.

B. Documentation

14. The following documents were prepared for the seventeenth session of the Working Group:

Agenda (E/CN.4/Sub.2/AC.4/1999/1/Rev.1);

Annotations to the provisional agenda (E/CN.4/Sub.2/AC.4/1999/1/Add.1);

Note by the secretariat on the organization of work (E/CN.4/Sub.2/AC.4/1999/2);

Note by the secretariat on information received from indigenous organizations on a permanent forum for indigenous people (E/CN.4/Sub.2/AC.4/1999/3);

Note by the secretariat on the Voluntary Fund for the International Decade of the World's Indigenous People (E/CN.4/Sub.2/AC.4/1999/4);

Report of the Workshop on Research and Higher Education Institutions and Indigenous Peoples (E/CN.4/Sub.2/AC.4/1999/5 and Add.1);

Note by the secretariat on the Voluntary Fund for Indigenous Populations (E/CN.4/Sub.2/AC.4/1999/6);

Note by the secretariat on information received from indigenous organizations (E/CN.4/Sub.2/AC.4/1999/7).

15. The following background documents were made available to the Working Group:

Report of the Working Group on Indigenous Populations on its sixteenth session (E/CN.4/Sub.2/1998/16);

Preliminary working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/1997/17 and Corr.1);

Report of the United Nations High Commissioner for Human Rights on activities undertaken for the International Decade of the World's Indigenous People (E/CN.4/1999/81);

Report of the Secretary-General on the status of the United Nations Voluntary Fund on Indigenous Populations (A/53/282);

Report of the Secretary-General on the implementation of the programme of activities for the Decade (A/53/310);

Report of the working group established in accordance with Commission on Human Rights resolution 1995/32 (E/CN.4/1999/82);

Report of the ad hoc working group on a permanent forum for indigenous people within the United Nations system (E/CN.4/1999/83);

Report of the expert seminar on practical experiences regarding indigenous land rights and claims (E/CN.4/Sub.2/AC.4/1996/6 and Add.1);

Second progress report on the working paper on indigenous peoples and their relationship to land (E/CN.4/Sub.2/1999/18);

Final report on the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20).

C. Opening of the session

16. A representative of the Office of the High Commissioner for Human Rights opened the seventeenth session of the Working Group on Indigenous Populations. He emphasized that the ultimate objective of the Office of the High Commissioner for Human Rights was the realization of the International Bill of Human Rights, which was born with the Charter of the United Nations. The Working Group on Indigenous Populations represented a key sector in that effort. The work on the permanent forum, the draft United Nations declaration on the rights of indigenous peoples, as well as the International Decade of the World's Indigenous People were key parts of the process of the realization of what the United Nations had set out for itself at the time the Charter was adopted. The interaction between non-governmental organizations, Governments and interest groups was part of that common endeavour.

17. In her opening statement the Chairperson-Rapporteur, Ms. Erica-Irene A. Daes, welcomed all participants to the seventeenth session of the Working Group on Indigenous Populations. She offered a special welcome

to the 82 indigenous representatives who had been supported by the United Nations Voluntary Fund for Indigenous Populations as well as the four indigenous fellows who were participating in the United Nations Indigenous Fellowship Programme within the Office of the High Commissioner for Human Rights.

18. At the request of Mr. Alfonso Martínez, the Chairperson-Rapporteur, called for a minute of silence in memory of two human rights activists who had made a valuable contribution to the protection and promotion of indigenous peoples' rights: Mr. Andrew Gray, former Director of the International Work Group on Indigenous Affairs, and Ms. Ingrid Washinawatok, a member of several indigenous organizations.

19. The Chairperson-Rapporteur stated that over the years, the Working Group had been responsible for launching many of the United Nations policy directions on indigenous issues. She encouraged a constructive dialogue and mutual understanding between the world's indigenous peoples and the Governments concerned and expressed the hope that substantive and practical proposals would be made at the seventeenth session of the Working Group.

20. The Chairperson-Rapporteur also made some observations on the priorities of the 1999 session of the Working Group. The principal theme of the discussion would be "indigenous peoples and their relationship to land". She hoped that the second progress report, prepared by her in her capacity as Special Rapporteur, would provide a useful framework for the discussions on this question.

21. The Chairperson-Rapporteur mentioned further that the final report of the Special Rapporteur on treaties, agreements and other constructive arrangements between States and indigenous populations, Mr. Miguel Alfonso Martínez, would be considered during the session. She encouraged the participants to consider his proposals and recommendations carefully and to make appropriate comments and suggestions as a follow-up to the study.

22. At its session last year the Working Group had decided to include under its item "standard-setting activities" some consideration of private-sector mining and energy companies. The Chairperson-Rapporteur stated that this was done in the light of the new policy directions of the Secretary-General encouraging the private sector to play a greater role in the realization of the goals of the United Nations, in particular in the areas of development, environment and human rights.

23. The Chairperson-Rapporteur furthermore referred to the fruitful and concrete discussions during the ad hoc working group on a permanent forum for indigenous peoples that had been held in February 1999. One of the tasks of the Working Group on Indigenous Populations, as requested by the Commission on Human Rights, would be to contribute, with comments and proposals, to the discussion.

24. On the occasion of this year's mid-point of the International Decade of the World's Indigenous People (1995-2004) the Chairperson-Rapporteur made an urgent appeal to Governments to be more supportive during the second half of the Decade. In that respect, she expressed her deep appreciation to the

Government of Costa Rica for hosting the United Nations workshop on research and higher education institutions and indigenous peoples in San José. She also expressed her deep appreciation to the Sami people, Sami Council, Sami Parliament, and the Institute for Human Rights of the Åbo Akademi for the organization of a very important workshop on the right of the indigenous peoples to self-determination, which had been held in Inari, Finland.

29. In concluding her opening statement, she pointed out that indigenous peoples had a major contribution to make to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance which would be held in the year 2001, and she believed that their presence and full participation in the preparatory phases and the Conference itself would be indispensable.

C. Adoption of the agenda

30. At its 1st meeting, the Working Group adopted by consensus the provisional agenda (E/CN.4/Sub.2/AC.4/1999/1).

31. The Working Group held 10 public meetings during its seventeenth session, of which 2 were extended.

E. Adoption of the report

32. The report of the Working Group on Indigenous Populations on its seventeenth session was adopted on 20 August 1999.

II. REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLES: GENERAL STATEMENTS

33. The observer for the World Intellectual Property Organization (WIPO) stated, inter alia, that his organization had inaugurated a subprogramme, entitled 'Intellectual property for new beneficiaries'. The objective of the subprogramme was to identify and explore the intellectual property needs and expectations of new beneficiaries, including the holders of indigenous knowledge and innovations. The observer informed the Working Group about the activities that WIPO had undertaken under this workplan in the 1998-1999 biennium, including a series of nine fact-finding missions on traditional knowledge, innovations and culture to identify and explore the intellectual property needs of traditional knowledge holders, including indigenous peoples. Missions had been undertaken to the South Pacific, South Asia, Southern and East Africa, North America, Central and West Africa, the Arab countries, South America, Central America and the Caribbean, and involved consultations with indigenous groups and local communities, as well as Governments and interested non-governmental organizations. The observer referred also to the Round Table on Intellectual Property and Indigenous Peoples that was organized by WIPO under this workplan in July 1998 to facilitate an exchange of views between policy makers and indigenous peoples; he said that a second round table, on intellectual property and traditional knowledge, would take place later this year. WIPO was considering the following activities for the 2000-2001 biennium: the organization of further WIPO round tables on the protection of traditional knowledge, innovations and creativity; the

commissioning, publication and dissemination of a study on customary law and regulatory systems that apply to the protection of traditional knowledge, innovations and creativity among indigenous peoples and local communities; and the development of intellectual property training materials on the protection of traditional knowledge, addressed specifically to indigenous peoples and other traditional knowledge holders.

30. The observer for the United Nations Development Programme (UNDP) said that her organization was undertaking a stock-taking of its work and engagement with indigenous peoples and mapping out how best to move forward strategically over the next half of the International Decade of the World's Indigenous People and beyond. Those exercises had consisted of internal and external reviews of UNDP's activities that involved indigenous communities and their respective organizations since the inauguration of the International Year of the World's Indigenous People in 1993. This had included a study of past and current projects within UNDP's multiple programmes that, either directly or indirectly, involved indigenous peoples. An external review had also been undertaken of existing policies and/or current policy-formulation processes in intergovernmental organizations, including various United Nations agencies and bilateral development cooperation agencies. In that context, a consultative meeting had been held between representatives from indigenous peoples' organizations and UNDP from 22 to 24 July 1999 in Geneva. The overall objective of the dialogue was to renew and deepen UNDP's partnership and engagement with indigenous peoples, their organizations and their communities.

31. The observer for the International Labour Office (ILO) gave a brief summary of recent developments in the ILO concerning indigenous and tribal peoples. The ILO's approach in the area falls within two major areas: supervision of the two conventions relating to indigenous and tribal peoples (Nos. 107 and 169), and technical assistance. These are carried out in a complementary manner. Convention No. 107 was now closed for ratification but remained valid for those countries which had ratified it, but not Convention No. 169 (20 in total). There were at present 13 ratifications of Convention No. 169 and a number of other States were considering ratification, including Brazil, Finland, New Zealand, the Philippines and Sweden. The Committee of Experts on the Application of Conventions and Recommendations, the principal ILO body responsible for monitoring the implementation of international labour standards, examines the application of Convention Nos. 107 and 169 on a regular basis. At the December 1998 session, the Committee made comments regarding Convention No. 107 with respect to Argentina, Bangladesh and Brazil. In its annual report, the Committee of Experts had observed that Convention No. 169 was the most comprehensive instrument of international law for the protection, in law and in practice, of the rights of indigenous and tribal peoples to preserve their own laws and customs within the national societies in which they lived. The observer noted that it was not the function of ILO to determine whether collective or individual property was the most appropriate for indigenous peoples in any given situation; involving indigenous peoples in the decision whether the form of property ownership should change was extremely important.

32. The observer for Bolivia informed the Working Group about the reform of article 1 of the Bolivian Constitution which recognized that indigenous

peoples were part of the multicultural and multi-ethnic Bolivian society. Bolivia had defined a national development policy which took indigenous peoples' rights into account. She referred to legislation regarding land rights of indigenous peoples as well as legislation related to biodiversity issues. The Government was also seeking to involve indigenous peoples in political forums. Lastly, addressing the issue of the cultural identity of indigenous peoples, she stressed that intercultural and multilingual education was to be made available for indigenous peoples.

33. The observer for Finland said that his Government had declared the rights of indigenous peoples to be one of the key points of the Finnish human rights policy. He expressed the satisfaction of his Government with the progress achieved in the process towards establishing a permanent forum for indigenous peoples. Further, he emphasized that his Government supported every effort to accelerate the finalization of the text of the draft United Nations declaration on the rights of indigenous peoples as soon as possible after the mid-point of the Decade. He informed the Working Group that a special rapporteur had been appointed by the Ministry of Justice to make proposals for the strengthening of Sami land rights on the basis of the usufruct of land in the possession of the State in the Sami homeland in order to make it possible for Finland to ratify ILO Convention No. 169.

34. The observer for New Zealand highlighted developments in the relationship between the Government and the Maori over the past year. He explained that the Treaty of Waitangi, signed in 1840, was the founding document of New Zealand and provided a framework for that relationship. It was stated that the Government was committed to working with Maori to find ways to further Maori interests, and to work towards its goals of achieving social and economic parity between Maori and non-Maori, and reaching fair and durable settlements to proven historical breaches of the Treaty of Waitangi. Progress had been made in settling claims arising from such breaches. In a further development, the Government had recently announced a revised approach to Treaty settlements, according to which claimant groups were no longer required to carry out detailed research to prove the validity of each of their individual claims. Consequently, most outstanding historical claims could now be negotiated straight away, provided the claimant negotiators had a proper mandate to represent their people. Furthermore, the Waitangi Tribunal, an independent commission of inquiry tasked with investigating Treaty breaches, had produced a number of significant reports making recommendations in respect of issues such as Maori property rights and tertiary education funding. The observer also informed the Working Group of the Government's review of the Maori Community Development Act. This Act provided for a four-tier representative structure for Maori (from the local community level to a national body, the New Zealand Maori Council), and was directed towards the needs of Maori communities with an emphasis on welfare. A significant undertaking in respect of the Decade was the Government's review of its position on ILO Convention No. 169: a process of consultation with Maori and departmental assessment of the implications for New Zealand of ratifying the Convention was currently under way.

35. The observer for Guatemala said that her country was a multi-ethnic, pluricultural and multilingual one and that during the last 15 years there had been substantial progress on the road to peace and important agreements had

been signed. In that process Guatemala had opened itself up to international scrutiny and verification. The Constitution of 1985 and the signing of the Peace Accord were two of the most important events during that period. As part of the latter, the "Indigenous Agreement", signed in 1995, specifically recognized the identity of the Maya, Garifunas and Xinca peoples within the unity of the nation. The Agreement provided mechanisms for guaranteeing the exercise of indigenous cultural rights and the strengthening of indigenous institutions. With regard to educational reforms, the Agreement foresaw the establishment of a commission that would ensure that the educational system reflected the multilingual and multicultural character of the country. Recently, an ombudsman for indigenous women had been established as part of the Agreement, whose office would consist of eight indigenous women.

36. The observer for Myanmar stated that in Myanmar there existed no problems whatsoever regarding indigenous issues per se, because all 135 national races belonging to the Union of Myanmar were indigenous. He drew the attention of the Working Group to his Government's commitment to the promotion and protection of the rights of all national races, so that they could take part fully in the political, economic and social life of the country.

37. The observer for South Africa said that since the adoption of the 1996 Constitution significant progress had been made in accommodating the aspirations of all South Africans, including Khoisan communities. The Constitution extended equal rights to all citizens and embodied the belief that South Africa belonged to all who lived there. The 1996 Constitution had been amended specifically to accommodate the reference to the Khoi, Nama and San Languages. A Pan-South African Language Board had been tasked to promote and create conditions for the development of those languages. The Constitution also provided for the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities. In giving effect to these legislative provisions, several conferences had been held and a National Khoisan Forum had been established.

38. The observer for Canada said that in his country a new, third territory, Nunavut, had been created on 1 April 1999, reflecting how Canada was willing to change the way it was governed in order to reflect the values and traditions of Aboriginal peoples. The Government had signed an historic agreement, covering land claims and self-government, with the Nisga'a people and the Province of British Columbia. Federal legislation to ratify the agreement would be introduced soon. The Working Group was also informed about the first full year of operation of "Gathering Strength", Canada's Aboriginal Action Plan launched in January 1998. At the heart of the Plan was a commitment to address the needs of Aboriginal communities by building a new relationship with Aboriginal peoples based on partnership and cooperation. In the past year, the following developments had taken place: the establishment of a healing process for those hurt by past policies, such as the manner in which residential schools had been administered; investments to support strong communities, economies, and cultures; the introduction of national and regional programmes aimed at strengthening Aboriginal governance and capacity-building.

39. The observer for the United States said that his Government maintained a unique legal relationship with Indian tribal governments and that the Clinton Administration frequently consulted with tribal governments and leaders in order to further develop a cooperative relationship. The United States had also worked on a series of natural resource-related issues involving indigenous concerns. He referred specifically to cooperation with Canada and Mexico to clarify indigenous rights under the Migratory Bird Treaties: new protocols to those treaties would permit subsistence hunting by indigenous communities. At the regional level, the United States was actively working with other Arctic States on the Arctic Council. With regard to developments at the international level, the United States supported reconstruction of the existing Working Group on Indigenous Populations and was committed to working towards the adoption of a draft United Nations declaration on indigenous rights.

40. The observer for the Russian Federation informed the Working Group about a new law that had been passed in April 1999 guaranteeing legal protection for indigenous peoples with regard to their relationship to land, their language, culture and their traditional way of life, and compensation issues. The law also secured participation in decision-making processes for indigenous peoples' representatives.

41. An indigenous representative from Australia informed the Working Group that the Committee on the Elimination of Racial Discrimination (CERD) had decided that the Australian Go ernment's Native Title Amendment Act 1998 discriminated against indigenous title holders by validating past acts, extinguishing native title, upgrading non-indigenous title and restricting their right to negotiate. He also said that to date the Prime Minister had not agreed to the CERD recommendations to suspend implementation of the 1998 amendments and reopen discussions to find solutions acceptable to the indigenous peoples. Further, the Government had formally objected to a visit to Australia by members of CERD. The observer also asked for clarification of the Government's position regarding an Aboriginal and Torres Strait Islander organization. The observer said that little progress had been made in the first five years of the Decade and that in Australia, recognition and respect for the rights of indigenous peoples had deteriorated.

42. An indigenous representative of the Torres Strait Islanders of Australia informed the Working Group about positive cooperation with the Australian and Queensland Governments. In a short time his people had experienced an improvement in their living standards, and progress had been made towards improved health status, native title over several of their islands had been recognized, business development had accelerated, and there had been a united push towards greater autonomy.

43. Another indigenous representative of the Torres Strait Islanders who lived on the mainland of the Australian continent said that his people had experienced the effects of the dislocation of their families from their traditional lands and sea. There had been significant advances for his people who lived in the Torres Strait itself, but mainland Torres Strait Islanders had not received a great deal of support until more recently. The linkage

between the homeland and the mainland Torres Strait Islander communities was of great importance in sustaining the culture and the inherent rights as indigenous people.

44. In a joint statement, an indigenous representative from New Zealand informed the Working Group about the new government policy on rivers, lakes and waterways which was a unilateral decision with no input from the Maori, in direct contravention of article 2 of the Treaty of Waitangi. Tribal Nations had a significant interest in those resources because they provided an important part of the traditional diet. The Waitangi Tribunal had issued reports confirming Maori proprietary rights in respect of rivers, lakes and waterways.

45. Indigenous representatives from Alaska informed the Working Group about the attempts of the native people of Alaska to preserve their subsistence lifestyle. The special right of natives to continue to hunt and fish was one of the most controversial issues in Alaska today. In this respect, reference was also made to the need for sustainable fishing practices in the Bering Sea.

46. An indigenous representative from Canada expressed the concern of his people at the Canadian Government's continuing infringement of First Nations' jurisdiction, authority and control over their children. According to the representative, children were being used by the State to accomplish particular objectives, such as the assimilation of indigenous peoples with a view to removing them from the land. He also referred to a First Nation child adoption case in the Province of Manitoba in which the Supreme Court of Canada had ruled in favour of the non-native adoptive grandparents, who resided in the United States. He said that this ruling and government policy would only reinforce the assimilation of First Nations children into the mainstream society, resulting in a loss of cultural identity and values.

47. Another indigenous representative from Canada urged the Working Group to encourage the Organization of American States (OAS) to ensure that indigenous peoples participated directly and fully in the negotiations concerning the proposed American Declaration on the Rights of Indigenous Peoples. He emphasized that the concept "indigenous peoples" should be reflected throughout the Declaration. Second, national and indigenous governments should pay more attention to improving the lives of indigenous children. Third, the Special Rapporteur on indigenous peoples and their relationship to land should give special attention to the situation of indigenous war veretans.

48. An indigenous representative from the United States drew the attention of the Working Group to the situation of a native American political prisoner, Leonard Peltier, who had been in prison in the United States for 22 years for a crime he did not commit and had become a symbol of injustice towards indigenous peoples. He asked the members of the Working Group to join in an effort to secure the release of this prisoner.

49. Many indigenous representatives from different regions expressed their deep anguish over the tragic death of Dr. Andrew Gray and the murder in

Colombia of Ingrid Washinawatok. In this context, they announced the "Andrew Gray Memorial Award" to be given annually to young indigenous activists and researchers.

50. An indigenous representative from the United States informed the Working Group that the Chairman of the New York Stock Exchange had met with representatives of the Revolutionary Armed Forces of Colombia (FARC). She condemned this meeting for having violated current United States policy of having no contact with the FARC rebels until those responsible for the murders in Colombia were brought to justice.

51. Indigenous representatives from Hawaii said that the Government had denied the right of native Hawaiians to self-determination. Ceded land should be returned to native Hawaiians to ensure follow-up to the 1993 "Apology Bill", in which the Government admitted complicity in the illegal overthrow of the Kingdom of Hawaii. Hawaiians should be able to participate actively in the settlement of land disputes with the Government.

52. An indigenous representative from Maluku said that his people had been suffering because of the riots on the Moluccan islands which the Indonesian authorities had attributed to religious differences. He said, however, that according to insiders, political analysts and above all, the indigenous people of the Moluccas, the fundamental causes of the riots were the inevitable tensions between indigenous people and transmigrants or immigrants who had been transferred from central Java and South Sulawesi to the Moluccan islands. He expressed the hope that peaceful coexistence between Muslims and Christians, indigenous and non-indigenous populations would be re-established and that mutual trust and democratic reforms would contribute to respect of the fundamental rights of the indigenous populations.

53. A representative of the Hmong people spoke about displaced Hmong people living in the Lao People's Democratic Republic and Thailand. In 1975 the Lao People's Democratic Republic had renamed the Hmong homeland region the "Saysomboun Special Zone". No foreigners or international monitors had been allowed access to the area. He spoke of the military attacks and use of chemical weapons by the Government against the Hmong living in this area in 1979, 1990 and 1998, and said that human rights violations continued to be perpetrated against the Hmong people. He asked that the United Nations pressure the Lao Government to open up the Saysomboun Special Zone to international monitors.

54. Several Ainu representatives informed the Working Group about the enactment of the Ainu Cultural Promotion Law of 1997 by the Japanese Government and said that by enforcing the Act, the Government believed that it had solved all the problems regarding the Ainu people. The Ainu were, however, still suffering from the Government's colonization and assimilation policies.

55. Indigenous representatives from Asia and Africa drew the attention of the Working Group to the violation of the language rights of the indigenous peoples in Nepal. Indigenous representatives from Nepal referred to the decision of the Supreme Court of Nepal of 1 June 1999 which stated that the use of national languages in local self-governmental bodies was illegal. The

judgement posed serious threats to the cultural identity of the indigenous peoples and linguistic minorities concerned. An indigenous representative from Morocco spoke about the threats to the linguistic and cultural identity of the Amazigh people in North Africa as a result of the Arabization policy of the Government.

56. An indigenous representative from Manipur in India said that recent developments in India indicated that existing domestic and international mechanisms to promote and protect the human rights and fundamental freedoms of indigenous peoples, including children, and to conserve vital wetlands and sensitive eco-zones of spiritual value had failed to fulfil their objectives, despite strong efforts by the indigenous peoples in Manipur to protect their human rights.

57. Two indigenous representatives from the Chittagong Hill Tracts in Bangladesh told the Working Group about an agreement reached on 2 December 1997 between the Government of Bangladesh and the Jana Samhati Samiti (JSS), the main political party of the Jumma peoples. They expressed their concern about the non-implementation of various aspects of the accord, including rehabilitation, demilitarization, appointment of police, the devolution of authority to the CHT council, and the recognition of their land, resource and customary rights. Furthermore, the fundamental rights of indigenous women continued to be violated.

58. A representative of the Naga people referred to the efforts made by them to seek a peaceful solution to the 52-year-old political conflict with the Government of India. The representative condemned the refusal of the Government of India to allow, for security reasons, the secretary of the Working Group on Indigenous Populations to attend a human rights celebration organized by the Naga people last year.

59. Two indigenous representatives from the Philippines spoke about the Indigenous Peoples' Rights Act of 1997. Although indigenous peoples' rights were included in a national policy, the Act did not give the necessary recognition and protection of those rights. Indigenous peoples of the Philippines were therefore not satisfied with the new law.

60. Another indigenous representative from the Philippines informed the Working Group about a workshop on intellectual property rights and indigenous peoples, held in Geneva in July and organized by her organization to examine the significance for indigenous peoples of article 27.3 b of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

61. An indigenous representative from Myanmar spoke about gross human rights violations against Chin indigenous peoples committed by the Government of his country. For example, Chin people were forced to work in development projects in the border areas where they lived. Religious persecution against the Chin Christians had also increased.

62. An indigenous representative from French Guyana regretted that the French education system continued to ignore the particularities of the language and culture of his people. No consultation took place when decisions were taken regarding his people.

63. An indigenous representative from Chagos Island informed the Working Group about the removal of his people to Mauritius during the cold war and expressed the hope that they could return to their home islands. His organization was ready for a constructive dialogue with the Government of the United Kingdom in that regard.

64. An indigenous representative of the Saami people commented on current developments in Finland regarding the definition of who was a Saami. She said that, through a legal amendment in Finland, the definition of Saami had been changed; it was now so broad that it was feared that in future Saami Parliament elections the majority might become non-Saami. The new definition ignored the fact that the Saami people had the right to identify the members of their own group, based on self-identification.

65. An indigenous representative of the Crimean Tatar People told the Working Group that the Constitution of the Autonomous Republic of Crimea had no provision for the use of the Crimean Tatar language as an official language, and that the voting system excluded the Crimean Tatar people from political participation; the Crimean Tatar people had protested against the Constitution. As a result of negotiations between the leadership of Mejlis of Crimean Tatar People and the President of the Ukraine, a consultative body, the Council of Representatives of Crimean Tatar People, had been established.

66. An indigenous representative of the Palestinian Bedouins referred to the attempts by Israeli forces to displace the Bedouin tribes by demolishing their homes and confiscating their land, in order to expand Israeli settlements. The Bedouins were exposed to various forms of violations regarding many facets of their life. They did not have access to basic services such as education, health, medical and veterinary services or social services.

67. An indigenous representative from Burkina Faso informed the Working Group about the situation of the Touareg people who lived in Mali, Burkina Faso, Algeria, the Libyan Arab Jamahiriya and Niger. The Touareg people were discriminated against and marginalized. They were denied their basic rights, such as the right to education, the right to life, the right to freedom of opinion, and the right to develop their own cultural identity.

68. Several indigenous representatives from Guatemala expressed concern that the constitutional reforms adopted by the Congress had been rejected in a recent referendum. One observer noted that there had been a high level of absenteeism and that voting booths had been set up in only 7,000 of the 19,000 communities. He stated that where indigenous communities could vote, they had overwhelmingly supported the reforms. He also referred to the situation of indigenous children, who were especially marginalized.

69. An indigenous representative from Chile stated that in the last three months the Mapuche peoples had been mobilizing to recover the lands that had been illegally obtained by non-Mapuche interests and multinational logging companies. He noted that there was a growing militarization of the region. He also expressed concern about decrees passed during the military dictatorship, one of which had led to the expansion of logging companies on about 200,000 hectares of Mapuche territory. Several indigenous representatives from Chile referred to the building of a hydroelectric dam on

Mapuche Pahuenche lands which, they claimed, was being imposed despite indigenous opposition. Another representative said that a recent inquiry had indicated that 80 per cent of Chilean society was sympathetic to the indigenous position on the dam.

70. An indigenous delegate from Ecuador reflected on the fact that although his country's Constitution and legislation guaranteed his people's right of participation, key economic decisions were monopolized by a small group of people. Since March 1999, indigenous peoples had been actively protesting against privatization and its impact on health and other services.

71. Indigenous representatives also referred to the human rights situation in Mexico and expressed concern about the oppression of indigenous peoples, especially in the southern states.

72. An indigenous representative, speaking on behalf of indigenous peoples of the Amazon region, spoke about the violence in Colombia, including forced displacements and assassinations. The indigenous peoples in that country had found themselves caught in the middle of a conflict involving the armed opposition, the paramilitary forces, the drug cartels and the army. The priority for the international community was to bring peace to the region. He also referred to the traditional knowledge of indigenous peoples and, in particular, to the patenting in the United States of America of a sacred indigenous plant known as yagé or ayahuasca. He complained that the owner of the patent had accused his organization of being a terrorist group.

73. An indigenous representative from Peru described his organization's activities to promote better protection of indigenous rights, including the holding of workshops on ILO Convention No. 169. Another representative from the same country expressed concern about the loss of control by indigenous peoples of the Andean region over their traditional rivers, lakes and waters. There had been a loss of underground water which was now affecting indigenous farmers and herders.

74. An indigenous representative from Brazil spoke about the important advances concerning his people in the last few years. He welcomed the recognition of indigenous lands but noted that there were still problems in certain areas. He referred to the high incidence of suicide among young Kaiua people and the continuing difficulties over demarcation of Macuxi lands in the State of Roraima. He noted also that despite formal recognition of indigenous territories, there were many violations by independent gold miners, loggers and landowners, and he called on the Government to ensure the protection of these territories.

III. INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND

75. In introducing item 5, Ms. Erica-Irene A. Daes, in her capacity as Special Rapporteur, presented to the Working Group her second progress report on indigenous people and their relationship to land (E/CN.4/Sub.2/1999/18), which was prepared for the fifty-first session of the Sub-Commission. The report was submitted in the form of a revised and updated working paper based on the first preliminary working paper (E/CN.4/Sub.2/1997/17), on the relevant

first progress report (E/CN.4/Sub.2/1998/15), and on the suggestions, data and information received from Governments, indigenous peoples' communities and non-governmental organizations.

76. The Special Rapporteur expressed deep regret that no comments, submissions or recommendations had been received over the past year from any Government, and only a few replies had been submitted from indigenous peoples. Because of this, and because of the great importance and complexity of the subject, she proposed that additional time should be given so that Governments, indigenous peoples and others could provide her with relevant data and material for the elaboration of the final working paper in accordance with decision 1997/114 of the Commission on Human Rights.

77. In the course of the discussion participants welcomed the significant contribution made by the Special Rapporteur with her second progress report and expressed their congratulations and thanks to the Special Rapporteur for her important work.

78. The representative of the World Bank said that the World Bank had revised its policy in 1991 to ensure that indigenous peoples' rights were fully respected in the development process. Since then, 150 World Bank-financed projects were taking indigenous interests into account. Many of these investments were in the infrastructure and energy sectors, and an increasing number of projects were in the areas of education, health, community development, agriculture, management of natural resources and land tenure security.

79. Indigenous representatives from Australia informed the Working Group about recent developments in Australia regarding land rights legislation. Many of the issues of concern to indigenous peoples in Australia emanated from racial discrimination by the Australian Government. Reference was made to the Native Title Amendment Act, passed in 1998. It was stated that this amendment substantially diminished the land rights of indigenous peoples which flowed from the Native Title Act of 1993. Further reference was made to the concerns expressed by the Committee on the Elimination of Racial Discrimination (CERD) over the compatibility of the amended Native Title Act with Australia's international obligations under the International Convention on the Elimination of All Forms of Racial Discrimination.

80. The observer for Finland said that the Ministry of Justice had appointed a special rapporteur to investigate the question of the rights to land, water and natural sources of livelihood of the Sami in the Sami homeland, taking into account in particular the international conventions and the principle of equality.

81. The Minister for Aboriginal and Torres Strait Islander Affairs of Australia, Senator John Herron, informed the Working Group about legislation regarding the land rights of indigenous people in his country. He said that the amended Native Title Act had been passed by the Senate, which was not controlled by the current Government. He also said that the Government was aware that CERD was critical of some aspects of this legislation. Australia's recent experience with the Committee had highlighted specific concerns about the way the United Nations treaty bodies considered sensitive and complex

policy issues, many of which had required a delicate balancing of interests by the Government. While his Government recognized the importance of land to indigenous people, it was possible to expect too much from simply restoring land ownership: land was not a panacea for the social and economic challenges facing indigenous communities. The Minister also spoke about "welfare-dependency" within indigenous communities. In his view, education was in the long term the only sustainable source of economic independence. Government support services remained essential but, in order to take advantage of available opportunities, people must see themselves as creating their own future.

82. The Assistant Deputy Minister for Indian and Northern Affairs of Canada, Mr. Robert Watts, informed the Working Group about his Government's policy with regard to historic treaties and the claims processes. He made reference to the Nisga'a Final Agreement, which would be the first treaty in Canada to cover a land claim and self-government in a single package. Further, the creation of the territory of Nunavut was an example of a comprehensive claim, involving the creation of public government in the North similar to Canada's two other territorial governments. Nunavut had come into existence on 1 April 1999 and covered one fifth of Canada's land mass. He said that, besides legal arrangements, there were also a range of opportunities based on the common interests of industry, governments and Aboriginal organizations and communities in working out practical measures to land and resource matters.

83. The observer for Switzerland said that there was a link between the possibility for indigenous peoples to use their land as they wished and the effective exercise of their human rights. He emphasized the importance of the legal recognition of indigenous peoples' territories. Because indigenous peoples played an important role in the conservation of the environment, it was important that they be included in decision-making processes at the local and national levels. The observer referred to his Government's support for indigenous development.

84. Many indigenous representatives emphasized that land was at the core of their existence and that the relationship with their land was of spiritual, cultural and material significance. Besides the question of self-determination, access to and control over lands, territories and natural resources were central for indigenous peoples throughout the world. Indigenous peoples depended on their land for their material and cultural survival and in order to survive they needed to be able to own, use, conserve and organize their own lands, territories and resources. The relationship to land of indigenous peoples was based on a unique philosophy of life and culture and a cosmic vision which evolved from the earth. Several indigenous representatives stated that indigenous peoples were the caretakers of the land and that the land took care of them in return. Never before had indigenous communities been in such danger of extinction.

85. Other indigenous representatives also said that their land was being jeopardized by mining and energy projects, tourism and logging activities which threatened to take away everything that once sustained the life of indigenous peoples. Land was often acquired for these projects without the consent of the indigenous peoples concerned. Many indigenous representatives noted that their peoples had reaped the fruits of their lands and resources

without threatening or damaging the ecosystem. They therefore emphasized that their traditional concepts, based on traditional knowledge and experience of subsistence use and conservation of lands and resources, should be taken into account in any attempts at rethinking the present resource demanding and environmentally damaging economic system.

86. In this context, an indigenous representative from Canada made reference to the detrimental effects of the logging industry on and around the reserve where his people lived, such as mercury poisoning of the local waters. Another indigenous representative said that in his region in India his people had often demonstrated against a number of large-scale development projects.

87. An indigenous representative from an African organization said that indigenous communities in his region had fully recognized the existence of the nation States. In return, African nationalities and indigenous communities wanted the nation States to reciprocate by granting them their land rights and control over their resources. According to his organization, the best way to guarantee stability and peace in Africa was for the international community to support the principles of self-determination and to grant land and resources control to the ethnic nationalities and indigenous communities.

88. Several indigenous representatives from India highlighted the problems of their people with regard to land. The land, which was part of their culture, world-view and identity, had been alienated due to an influx of non-indigenous immigrants or had been acquired for industry and tea plantations. Further, exploitation of the natural resources had degraded the quality of life of indigenous peoples. Agricultural land had been used for national development projects, displacing the native people and making them landless labourers.

89. Several indigenous representatives pointed out that the protection of their rights to control and manage their land and resources was a fundamental part of the draft declaration on the rights of indigenous peoples. The preamble, articles 7, 10, 12, 25, 26, 27, 30 and 31 of the draft declaration all referred to various aspects of land rights and should be studied by all countries. Several indigenous representatives emphasized the importance of adopting the draft declaration as soon as possible. Others said that it should be recognized that other international instruments should also address land issues.

90. A Saami representative gave a brief update on the land rights situation in the Saami territory in Norway, Sweden, Finland and Russia. The Norwegian Government had appointed a Saami Rights Commission in 1980, which was to look into the Saami rights to land and water. Unfortunately, the Commission had only to a very limited degree elaborated on the question of Saami ownership, and had not taken into account Saami customary law. The Swedish Government had not recognized Saami rights of ownership and possession of lands, waters and resources. However, it was currently considering the possibility of ratifying ILO Convention No. 169. With regard to Finland, the representative called upon the Government to grant the necessary funds to the Saami Parliament to carry out an investigation on the right to land, water and natural resources. Further, the representative said that the Russian Constitution gave indigenous peoples certain rights, including the rights to

land and natural resources in their own region, but that without the necessary political and legal implementation measures those rights did not have much practical value for the people concerned.

91. An indigenous representative from Japan said that her people had had their land taken and used for military purposes by foreign Powers, as a result of which the traditional peace-oriented values of her people had been ignored and insulted. Further, such confiscation was a violation of international law.

92. The observer for Bolivia referred to the 1994 constitutional reform which included the right of indigenous peoples to their traditional lands for the first time in his country's history. He noted that law 1715 of 18 October 1996 also had provisions guaranteeing the rights of indigenous peoples to their original homelands. Bolivia had ratified ILO Convention No. 169 and several legislative measures were being enacted to implement its provisions.

93. A representative from an Ainu organization informed the Working Group that the rights of the Ainu people to manage their own land and to administer certain areas, such as sacred sites and other places of historical significance, were not recognized. She referred to a memorial site in a city, which commemorated the forced relocation of young indigenous people to a boarding school in the distant capital, where they were subjected to assimilationist education. Her people could not forget the experiences of these young people and wanted to be able to honour them at this site in their own way.

94. Several representatives from Kenya informed the Working Group that the twentieth century had been a century of deprivation for their people in terms of land loss. Their people had been alienated from their traditional lands and multinational corporations were developing activities on their land now. One indigenous representative referred to the commercial beef/game ranching which had greatly reduced community food security, interfered with grazing patterns and disrupted mobility. Another representative said that there were many influential and conflicting interests at work in the territories where indigenous peoples lived, resulting in fierce competition over land. The three most powerful were the livestock industry, wildlife conservation and agriculture. The livestock industry, which was the mainstay of his people, was decreasing at an alarming rate due to the increase of the other two sectors.

95. Indigenous representatives from New Zealand said that the dispossession of land was only part of the wider grievances concerning the process of colonization. An indigenous representative from the United States informed the Working Group about a land dispute between her people and the Government. An indigenous representative from India expressed his concern about the consequences for his people of new legislation. An indigenous representative from Bangladesh expressed the concern of his people about the situation with regard to development issues related to land use, despite the signing of an agreement with the Government.

96. A representative from an Inuit organization said that his organization anticipated with great expectation the decision of the Danish High Court on the forced relocation of the village of Uummannaq in 1953 during the establishment of an air force base in Thule, Greenland. He said that in this case the Government disputed the Thule Inuit's legal rights. In this regard, he recalled article 14 of the ILO Convention No. 169, which Denmark had ratified in 1996.

97. Several indigenous representatives said that their land had been taken without due process of law or compensation. It was said that the confiscation of land and the forced removal from traditional land meant a great loss of identity and was a threat to the existence of indigenous peoples. Some indigenous representatives said that extinguishment of rights to the land and territory was an important issue. Other indigenous representatives said that the failure of Governments to demarcate lands and to indicate specifically indigenous lands on national maps was a problem.

98. An indigenous representative from Namibia drew the attention of the Working Group to the situation in his country. His people were dispossessed of their ancestral land so that it could be turned into a tourist attraction. The majority of his people were forced to relocate to places with which they were unfamiliar. With the loss of their land, his people had also lost their natural resources, their ancient culture and their traditional knowledge. They had not received any compensation, nor had they been involved in planning resettlement programmes.

99. The observer for Mauritius stated that members of the Comité social des chagossiens were, first and foremost, citizens of the Republic of Mauritius and derived their status from the Constitution itself. She recalled that at the United Nations General Assembly last year, the Prime Minister of Mauritius had drawn attention to the plight of some 1,500 inhabitants, referred to as Chagossiens or Illois, and had stressed need for the former colonial Power to enter into a constructive bilateral dialogue with the Government of Mauritius, as the legal representative of all its people, for the early and unconditional restoration of the Chagos Archipelago, including Diego Garcia, to the sovereignty of Mauritius.

100. The observer for Chile spoke about the land-related problems faced by indigenous peoples in his country as a consequence of the military dictatorship. Until 1989, indigenous communities had lost more than 700,000 hectares of land that they had occupied at the beginning of the century. He stated that since the return of democracy more than 240,000 hectares of land had been returned to indigenous communities. He concluded by recommending that the United Nations provide indigenous peoples with technical assistance so that they could better defend their land rights.

101. Numerous indigenous representatives from Latin America spoke about the transfer of collective lands to private ownership. They referred to the growing poverty among communities as a result of the loss of land. Several indigenous representatives from the Andean region mentioned the damaging impact on the environment of mining, water contamination and loss of biodiversity. They called for the legal recognition of their collective right over sufficient lands for the survival and well-being of their peoples.

102. An indigenous representative from Panama congratulated the Special Rapporteur, Ms. Daes, for her study and provided some additional information relating to the land rights of his people. He said that his people insisted on a recognition of the sacred qualities of the land as told by the elders. He suggested that the Special Rapporteur also include reference to the recommendations of other international forums such as those relating to the forests in her report.

103. An indigenous representative from Guatemala recommended that a special fund be established to help to buy back land for indigenous people affected by the civil war. He condemned the privatization of indigenous collectively owned lands and called on the Government to ensure that indigenous communities were involved in environmental conservation.

104. A number of indigenous representatives stressed that land rights should be a permanent part of the Working Group's agenda.

IV. INDIGENOUS PEOPLES AND HEALTH: FOLLOW-UP AND RECENT DEVELOPMENTS

105. The Chairperson-Rapporteur introduced the item and emphasized the importance of this matter for indigenous peoples. She also referred to the unacceptable health conditions and medical services which existed in certain countries.

106. The representative of WHO stated that the organization's Constitution recognized health as a fundamental human right. He highlighted the organization's activities of relevance to indigenous peoples such as the programmes on substance abuse, traditional medicine, mental health and AIDS. WHO had started to strengthen its institutional capacity to respond better to those major issues and challenges. He reported on the adoption of the resolution on the health of indigenous peoples by the World Health Assembly in May 1998. He noted that the life expectancy at birth of indigenous peoples was as many as 10 to 21 years less than for the general population. He also referred to the difficulties indigenous people had in accessing health care due to geographical, cultural and economic factors.

107. The representative of UNFPA referred to the International Conference on Population and Development (ICPD) held in Cairo in 1994. The main objectives of the section of the Programme of Action of the IPCD dedicated to indigenous peoples were to incorporate, implement, monitor and evaluate programmes affecting indigenous peoples and to ensure that those programmes were socially, culturally and ecologically appropriate. UNFPA had supported relevant projects in Morocco, several Latin American countries and India.

108. An indigenous representative from Canada expressed concern that the health of indigenous children was greatly affected by the current child welfare system which removed children both from families and from communities. The results were lifelong scars, drug and alcohol abuse, a high incarceration rate and violence. Another indigenous representative from Canada sketched the situation of older persons and elders in Canada. He mentioned problems related to life expectancy, disability rates, income inequities and job opportunities. He urged the development of an indigenous-controlled health-care system for his community to ensure their access to appropriate

services. Another indigenous representative from Canada described the difficulties that arose from the fact that one hospital served about 20,000 indigenous people although the indigenous peoples of that area had the highest rates of tuberculosis and suicide in Canada. He noted the fact that two thirds of the indigenous population in Canada diagnosed with diabetes were women and that type-2 diabetes was rapidly increasing among indigenous youth. He emphasized that health should be retained as an agenda item in future sessions. Another indigenous representative from Canada said that an information-gathering programme on health and the environment had been set up in order to improve the planning and implementation of programmes.

109. The representative of the Committee on Indigenous Health underlined the relationship between health and land by connecting the lack of land, water and natural resources with the loss of indigenous knowledge, traditional health systems, medical plants and minerals and places of healing. Several other representatives referred to the strong connection between health and land.

110. The indigenous representative of Ka Lahti Hawai'i stated that the health statistics of native Hawaiians were the worst in the United States, especially heart disease, cancer and diabetes. He noted, for example, that 66 per cent of all diabetes cases in Hawaii affected native Hawaiians although they make up only 20 per cent of the total population. He stated that these facts had not been considered in the Native Hawaiian Health Care Improvement Act, which had not brought about any significant improvement in health statistics.

111. A non-governmental representative stated that 25,000 Kurdish people had died and more than 250,000 people still suffered from severe health problems as a result of chemical and biological weapons attacks in Iraq in 1988.

112. An indigenous representative from Bangladesh stated that little had been done in the last year to improve the condition of health and sanitation in the region, especially for indigenous peoples. Unsafe drinking water, malaria, malnutrition, diarrhoea, dysentery, a lack of sanitary toilets and no access to doctors, hospitals or other medical services had caused the deaths of countless people. A malaria eradication programme had been stopped by the Government despite the fact that malaria was still one of the biggest health problems in the Hill Tracts and other mountainous regions.

113. An indigenous representative from Japan reported that the Ainu people were still suffering from severe health problems despite the fact that Japan had one of the most modern medical systems in the world.

114. An indigenous representative from Nepal made a connection between natural destruction such as deforestation, flooding, landslides and soil erosion and the health problems of indigenous peoples and their livestock. He stated that 83 per cent of indigenous women could not get prenatal care.

115. An indigenous representative from Rwanda said that denying the Batwa access to the forests had led to loss of their livelihood. He urged WHO to pay special attention to this case because of the alarming state of health of the Batwa people.

116. An indigenous representative from Peru referred to a family planning programme in his country which, instead of providing health care, was promoting sterilization of indigenous women without consulting them. The sterilization programme was made easier because many native indigenous women were illiterate.

V. STANDARD-SETTING ACTIVITIES

117. The Chairperson-Rapporteur introduced item 7.

118. The representative of UNCTAD informed the Working Group that his organization had a mandate to work on mineral resources, among other matters, and especially to consider the management of those resources in the context of sustainable development. He drew attention to two initiatives of relevance to indigenous peoples. The first activity concerned a pilot project in South Africa to implement a framework for mineral resource development with local community participation at all stages. The second concerned the establishment on the Internet of a site entitled "Mineral resources forum" (www.natural-resources.org/minerals), which was intended to serve as a framework for international cooperation on minerals, metals and sustainable development. He proposed that the Website be used to hold an electronic debate on the theme "Land, resources and communities" as a follow-up to the informal meetings that had taken place during the session of the Working Group.

119. An indigenous representative from Canada informed the Working Group that his community had brought legal action against the provincial and national governments and some enterprises to stop the construction of a gas pipeline across their territory. Other indigenous representatives from Canada and Australia gave examples of the severe problems and threats to their culture they had to face with regard to energy and mining projects. In Canada, Australia and South Africa mining companies were often ignorant about the aboriginal and treaty rights of indigenous peoples. A joint statement by indigenous representatives recommended that there should be some means of identifying the issues that arose when mineral resources on indigenous territories were exploited and that a code of ethics for all corporations desiring to work on indigenous territories should be developed. An indigenous representative from South Africa called for more technical assistance from the mining companies for affected communities during and after exploitation of the mines.

120. An indigenous representative from Hawaii expressed concern about sub-surface ocean mining which was not complying with environmental standards and would have an impact on indigenous communities.

121. An indigenous representative from Australia stated that the effects of globalization were affecting the human rights of indigenous peoples. Indigenous peoples could continue to be put under siege by multinational corporations. He referred to a statement by the Director-General of the ILO who, he said, had stated that the immense energy of the world market had to be channelled to give globalization a human face.

122. An indigenous representative from Australia said that any breaches of important international treaties, such as the International Convention on the Elimination of All Forms of Racial Discrimination, should be taken up by the United Nations. Another indigenous representative from Australia stated that there was a need to examine and analyse the relationship between indigenous peoples and the law enforcement authorities, prosecutors, defence lawyers and the law courts. It was necessary to examine the situation of indigenous people in custody.

123. An indigenous representative from Japan informed the Working Group about a landmark decision of the Sapporo District Court which recognized the indigenous identity of the Ainu people. She highlighted the need to stop energy projects when they were no longer urgently needed. She also spoke about the importance of compensation of traditional landowners and said that the rights of indigenous peoples should take precedence over public claims.

124. An indigenous representative from South America made several recommendations concerning mineral development on indigenous lands. He suggested that Governments should demand that mining companies carry out a cultural impact study prior to any project; that such studies should be undertaken by genuinely independent bodies; that indigenous communities should have access to all technical information; and that mining and energy companies should guarantee payment for any damage caused by their activities.

125. An indigenous representative from Amazonia spoke about the damage being done to his region by oil and mining companies in particular. He referred to a meeting organized by the World Bank in May 1999 on energy, the environment and communities in which his organization had participated. The meeting was designed to bring together energy companies, Governments and indigenous peoples. He noted several principles of importance for indigenous peoples. He stressed in particular the need for prior consultation and full participation of indigenous peoples in the elaboration of energy projects, for compensation and benefit-sharing, and for sociocultural impact studies to be integrated into the normal environmental impact assessments.

126. An indigenous representative from the United States alleged that a coal mining company was damaging the ancestral sacred sites of his people. He said that 2 million gallons of fresh water were used to flush coal through slurry pipes, causing rivers to run dry.

VI. STUDY ON TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN STATES AND INDIGENOUS POPULATIONS

127. The Chairperson-Rapporteur introduced item 8. She congratulated the Special Rapporteur, Mr. Miguel Alfonso Martínez, for his final report and invited him to present it to the Working Group.

128. The Special Rapporteur on treaties, agreements and other constructive arrangements between States and indigenous populations, Mr. Miguel Alfonso Martínez, presented his final report (E/CN.4/Sub.2/1999/20) to the Working Group. He recalled that, in accordance with the mandate conferred on him by ECOSOC, the main purpose of the study was to analyse the potential utility of those instruments for ensuring the promotion and protection of the rights

and freedoms of indigenous peoples and to take into account the need to develop innovative, forward-looking approaches to relationships between indigenous peoples and Governments. In so doing, he was to take into account the inviolability of the sovereignty and territorial integrity of States, as well as their socio-economic realities.

129. In the first part of his introductory statement, Mr. Alfonso Martínez noted that he had detected a number of errors in the final version of his report and that he wished to thoroughly review the English, Spanish and French versions in order to correct such errors. He would submit the necessary corrections to the secretariat as soon as possible and not later than the end of October 1999. He further noted a number of corrections he had made to the 1998 unedited version as a result of the debate held in the Working Group and the Sub-Commission last year and the written submissions he had received since then. He mentioned, in particular, suggestions by the Government of Denmark and two indigenous organizations from Hawaii and Canada.

130. In that connection, he stressed that although he had carefully studied the critical remarks made (both during last year's debate in the Working Group and in two written submissions by indigenous organizations received in early 1999) to paragraphs 72 to 90 of the 1998 unedited version, no changes had been introduced in the final version with respect to those paragraphs, which referred to the Special Rapporteur's serious concern about the current uncritical application of the term "indigenous" to situations in the African and Asian contexts. The reasons for the Special Rapporteur maintaining his original views on this subject were explained in paragraphs 87, 88, 89 and 91 of the final version. The full texts of the two written submissions, which had been sent to him by organizations and individuals based in Africa and Asia, would be circulated as addenda to the report at a later stage.

131. Mr. Alfonso Martínez then proceeded to address the conclusions and recommendations contained in chapter IV (paras. 245-322) of his final report. As regards his conclusions, he highlighted, among others, those that referred to the crucial importance of the issue of recognition of indigenous peoples' right to their lands (paras. 252-253) and of their right to self-determination, inherent to all peoples in accordance with the Charter of the United Nations with the proviso that any contradiction emerging from the exercise of this right with the right and duty of States to protect their sovereignty and territorial integrity should be resolved by peaceful means (para. 256), and the continued validity of the so-called "historical" treaties, agreements and other constructive arrangements between indigenous peoples and States. As far as the recommendations were concerned, the Special Rapporteur emphasized that in his view the most forward-looking and far-reaching was the one suggesting the establishment, in societies with an indigenous segment of the population, of a new "indigenous jurisdiction" with advisory, adjudicative and administrative functions as well as a capacity to propose legislation to be adopted by the legislative body (paras. 307-311). He also stressed the need to encourage and nurture a process of confidence-building (paras. 294-302).

132. The members of the Working Group congratulated the Special Rapporteur on his report. Ms. Daes, in her personal capacity, underlined that the study was

a monumental work and would contribute to better understanding of the draft declaration on the rights of indigenous peoples. The report would enhance reconciliation proceedings between indigenous peoples and Governments.

133. Mr. Guissé said that the report was a starting point for all experts in the international community but he expressed concern regarding the annexation of the views from the African and Asian organizations. He stressed that all errors and omissions should be corrected before the report was submitted to the Commission on Human Rights. He highlighted the importance of visiting the African and Asian continents before writing the report.

134. The observer for Bangladesh thanked the Special Rapporteur for his final report and considered that his study was an interesting attempt to describe the overall process of domestication of indigenous issues in their various manifestations. She admitted, however, that the very late issuance of the document did not allow her sufficient time to provide substantive comments in a more comprehensive manner.

135. The observer for Denmark stated that his Government strongly believed in indigenous peoples' general right to self-identification, meaning, therefore, that indigenous peoples, indigenous rights and indigenous issues should not be defined in any historical, geographical or other context. The Danish Government did not support the views expressed by the Special Rapporteur on an alleged exclusiveness of the term "indigenous", nor did it accept the conclusions Mr. Alfonso Martínez had drawn for dealing with indigenous issues within the framework of the United Nations. He regretted that the comments expressed last year by his Government regarding the Home Rule Government of Greenland had made very little impression on the Special Rapporteur.

136. A representative of an indigenous organization in India stated that the final report was a milestone in the advancement of the rights of indigenous peoples. The study reaffirmed that treaties between indigenous peoples and States were international agreements and that indigenous peoples were subjects of international law, meaning that any domestication of those agreements by States was a violation of the indigenous peoples' right to self-determination. She recalled the importance of the principle, stated by the Special Rapporteur, that the rights of indigenous peoples should not only be addressed from a juridical and legal framework, but also from a moral and ethical point of view.

137. Many indigenous representatives expressed their gratitude to the Special Rapporteur for his work and said that the final conclusions and recommendations would enable better comprehension and protection of indigenous peoples. They expressed concern regarding the identification of indigenous peoples chosen by the Special Rapporteur. They also said that although Mr. Alfonso Martínez did not deny the existence of any indigenous peoples in Africa and Asia, his conclusions did not appropriately consider their indigenous identity. The example was mentioned of the Adivasi peoples in India who were an indigenous people, although their land rights were governed by no written documents but by customs and traditions. The defining by the Special Rapporteur of indigenous peoples in Asia, Africa and the Pacific needed to be considered alongside the views of those peoples whose rights were currently violated under the existing political, economic and cultural

administration of States. They suggested that the study on treaties should only be adopted when it explicitly stated that a further study was needed in order to reveal the extended mosaic of indigenous peoples in Africa and Asia.

138. Several indigenous representatives from Canada informed the Working Group about the alleged legal obligation of Canada, as successor State, to implement the treaties concluded between the British Crown and indigenous peoples. Reference was made to Treaty Nine concluded between the British Crown and the Headman of the indigenous peoples of Achigo, recognizing their sovereignty and exclusive jurisdiction over their territory; the Special Rapporteur had mentioned that matter in his report. They said that Canada had tried to shift international legal norms to diminish the significance of treaty-making without proper consultation or the consent of indigenous peoples. The representatives expressed support for and endorsed the conclusions and recommendations set out in the study.

139. Representatives from Hawaii expressed their gratitude and made specific reference to the "Apology Bill" adopted by the Congress of the United States in 1993, and to the conclusion of the report stating that the case of Hawaii could be re-entered on the list of Non-Self-Governing Territories of the United Nations.

140. Several representatives of African and Asian indigenous peoples' organizations congratulated Mr. Alfonso Martínez for the hard work he had put into the report and noted that certain recommendations and conclusions had a direct impact upon the indigenous peoples of Africa and Asia. They were of the opinion that it would be premature to comment on the implications it would have if the indigenous peoples of Africa and Asia should seek a different forum of the United Nations. The study did not give due weight to the situation of indigenous peoples that had not been party to treaties, agreements and constructive arrangements. They argued that it fell outside the mandate of the Special Rapporteur to question or deny the indigenous status of those peoples.

141. An indigenous representative from Bangladesh thanked Mr. Alfonso Martínez as well as those organizations and individuals who had provided information for the report. The potential value of the report had, however, been severely undermined by the observations of the Special Rapporteur with regard to the question of the "indigenous" status of the indigenous peoples of Africa and Asia. He noted that, apart from a few examples, such as the Masai and the Ainu, in general the indigenous peoples of Africa and Asia had not been included in the category of "indigenous" peoples although the Special Rapporteur viewed his mandate as "universal". He rejected the suggestion that the indigenous peoples of Asia and Africa would be able to obtain adequate remedies in the Working Group on Minorities and recommended that critical opinions should be incorporated into the report before it became an official United Nations document.

142. At the end of the debate, the Special Rapporteur expressed his gratitude for the comments made on the final report, in particular those which expressed criticism. The discussion was very impressive in view of the number of speakers and the variety of opinions. He was surprised by the comments of two delegations which accused him of being racist, which in his opinion was

inaccurate. The Special Rapporteur referred to the applicability of the term "indigenous" in certain situations in Africa and Asia. He upheld the thesis that the term had been coined by the European conqueror who imposed his own rules and that, owing to the fact that the decolonization period had finished in Asia and Africa, the term was no longer appropriate to most situations in those continents. The Special Rapporteur did not deny the existence of human rights violations but questioned whether the present forum was appropriate to remedy them. There were other United Nations forums, such as the Working Group on Minorities, that would be more appropriate.

VII. CONSIDERATION OF THE REPORT OF THE AD HOC WORKING GROUP ON A PERMANENT FORUM FOR INDIGENOUS PEOPLE

143. The Chairperson-Rapporteur introduced item 9. She congratulated the Chairperson-Rapporteur of the working group, Mr. Richard van Rijssen, for the way he had chaired the meeting. She considered the creation of a permanent forum an indispensable next step for indigenous peoples and expressed the hope that within two years a new, innovative coordinating body for indigenous issues within the United Nations system would be realized.

144. In introducing his report (E/CN.4/1999/83), Mr. van Rijssen said, inter alia, that during the session of the working group he had consulted with Governments and indigenous organizations on very concrete issues regarding the permanent forum. He had learned that indigenous people and Governments were in a "different ball game". Nevertheless, he believed that the point of no return had been reached and that there was agreement that a permanent forum should and could be set up. The idea of a permanent forum was completely new: the United Nations was an organization of Governments and nation States, and for the first time representatives of indigenous groups would work on the same footing. He expressed the hope that the permanent forum would be established before the end of the International Decade of the World's Indigenous People, and that it could be given two or three years to assess how it worked and how it could be improved.

145. A Saami representative, on behalf of 16 indigenous organizations from different regions of the world, stated that the swift establishment of a permanent forum and the adoption of the draft declaration were the most important tasks for the United Nations to complete before the end of the International Decade of the World's Indigenous People. On the basis of the debate in the working group, it was clear that a large number of issues had sufficient support to serve as a solid basis for the establishment of the forum. That a permanent forum for indigenous people should be established was broadly accepted by all parties involved and there was also agreement with regard to a broad mandate, which should cover all issues affecting indigenous peoples. The agreement that the forum should be organized as an open assembly in which all Governments, indigenous peoples and organizations, international and regional intergovernmental organizations, non-governmental organizations and other interested parties could participate, was welcomed by the representative. Furthermore, he noted acceptance of the proposal that a core group of the forum should be composed of a limited number of representatives of Governments and indigenous peoples, on an equal basis, from all regions of the world. The representative said that the forum should be composed of an equal number of representatives of indigenous peoples and Governments, acting

as full voting members. He was of the opinion that the forum should report directly to ECOSOC. The mandate of the forum should enable it to deal effectively with the full range of issues covered by the mandate of ECOSOC which were of concern to indigenous peoples. The activities of the forum should be funded from the regular budget of the United Nations. A new and separate secretariat should be established separate from the Office of the High Commissioner for Human Rights. The Working Group on Indigenous Populations should continue to exist.

146. Other indigenous representatives supported the establishment of such a forum. One indigenous representative from Guatemala requested Governments to conduct consultations with indigenous peoples to remove barriers to the establishment of the forum.

147. The observer for Guatemala said her Government firmly supported the establishment of a permanent forum for indigenous people within the United Nations system. She considered both the Working Group on Indigenous Populations and the permanent forum necessary bodies for the participation of indigenous peoples within the United Nations system.

148. Mr. Alfonso Martínez said that the general agreement about the appropriateness of a permanent forum should not be used as an excuse to dissolve the Working Group on Indigenous Populations. He drew the attention of the participants to recommendation 12 (e) in the report of the Bureau of the fifty-fourth session of the Commission on Human Rights (E/CN.4/1999/104) in which it is stated that the Working Group on Indigenous Populations should continue to perform its work until such time as the question of its future status was resolved in the context of the Commission's deliberations on a permanent forum for indigenous people in the United Nations system.

149. The observer for Denmark, on behalf of Denmark, Estonia, Finland, Iceland, Norway, Sweden, the Saami Parliaments of Finland, Norway and Sweden, and the Greenland Home Rule Government, noted with satisfaction that the working group would meet again prior to the fifty-sixth session of the Commission. She encouraged all Governments and indigenous peoples to study carefully the report on the first meeting and to consider seriously the various proposals that had already been put forward concerning the forum. She said that the momentum gained during the first meeting of the working group must be maintained.

150. An indigenous representative from the Russian Federation said that there was no reason to dissolve the present Working Group and that it should exist parallel to the permanent forum. He also proposed to lengthen the sessions of the Working Group to eight days and to change the dates to cover 9 August, the International Day of the World's Indigenous People.

151. Many indigenous participants said that the permanent forum should be established as soon as possible. Many also expressed the view that the establishment of the permanent forum should not necessarily mean the abolition of the Working Group on Indigenous Populations.

VIII. INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE

152. Under items 10, 11 and 12 of the agenda, observer delegates submitted written statements.

153. An indigenous representative from Japan recommended that the United Nations should hold a conference for Asian and African indigenous peoples. This would help to strengthen their relationship with the United Nations, NGOs and other interested parties and to inform the international community about their circumstances, especially those relating to indigenous education and language.

154. An indigenous representative from Canada noted the importance of the right to education. He encouraged a holistic view of education, stressing that it included spiritual, mental and physical aspects. He welcomed the inclusion of sports, recreation and physical education in the report of the workshop held in Costa Rica.

155. In a joint statement indigenous nations of North America and Canada conveyed their opinion that sport was a human right and expressed their strong support for the World Indigenous Nations (WIN) Games. They recommended that lacrosse should become an Olympic and medal event in the 2004 games in Athens. Finally, they expressed their support for the nomination of Jim Thorpe as the greatest all-round athlete of the twentieth century. An indigenous organization from Ecuador expressed its support for the initiative to consider the Olympic Indigenous Games an official activity of the International Decade. They submitted a request that Imbabura, Ecuador, be a candidate to host the WIN games in 2007.

156. In a joint statement the former indigenous fellows expressed strong support for the Indigenous Fellowship Programme, pointing to the positive impact their experience had had in helping them improve their communities. They suggested that the experience be expanded to include opportunities for Spanish and French speakers as well.

157. An indigenous representative from South Africa requested that NGOs be encouraged to enter into partnership with historically disadvantaged higher education institutions in South Africa. In a joint statement indigenous representatives from the Russian Federation suggested that a committee on human rights be established that would award a prize to indigenous people for their contribution to human rights.

IX. WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

158. A representative of an indigenous organization from Canada expressed the desire that the World Conference should include an item relating to racism in sports, especially from the viewpoint of indigenous peoples and athletes.

159. A representative of an indigenous organization from Australia recommended that the Commission on Human Rights should include the theme of

indigenous issues in the agenda of the World Conference. The organization encouraged the use of the media and the Internet to eliminate, not incite, racial discrimination.

160. An indigenous representative from Peru recommended that a special study be undertaken on indigenous peoples for consideration by the World Conference.

X. OTHER MATTERS

161. An indigenous representative from Canada proposed that at its eighteenth session the Working Group should focus on children, as it would be the tenth anniversary of the Convention on the Rights of the Child. At the nineteenth session it should address the issue of self-determination.

162. Mr. Hatano informed the Working Group that he had taken the decision to leave the Sub-Commission in order to let his alternate take over his seat. He expressed his thanks to Ms. Daes, Mr. Guissé and Mr. Alfonso Martínez and to all the participants in the Working Group. He said that the 10 years in the Working Group had been invaluable to him. The Chairperson-Rapporteur expressed the gratitude and deep appreciation of all the members of the Working Group and thanked Mr. Hatano for the work he had done. She extended her best wishes for the future. The Working Group gave Mr. Hatano a standing ovation.

163. The Chairperson-Rapporteur referred to the celebration of the International Day of the World's Indigenous People (9 August) which was held on the grounds of the Palais des Nations on 30 July, in accordance with the recommendation of the members of the Working Group. The Chairperson-Rapporteur expressed her appreciation for the participation of the Director-General of the United Nations Office at Geneva and the United Nations High Commissioner for Human Rights.

XI. CLOSING MEETING

164. In her closing remarks, the Chairperson-Rapporteur congratulated the participants for the work that had been accomplished during the seventeenth session of the Working Group on Indigenous Populations. The Working Group had a very long and complex agenda and hundreds of speakers. However, she hoped that everybody felt that their views had been heard. The Chairperson-Rapporteur expressed her gratitude to her colleagues, Mr. Alfonso Martínez, Mr. Hatano and Mr. Guissé, who had supported her in her work. She extended many thanks to all the people who had assisted during the Working Group: the four participants in the Indigenous Fellowship Programme, the interns and volunteers, as well as the interpreters. She also expressed her gratitude and deep appreciation to the Director of Public Information, and her colleagues for the constant and valuable assistance provided to the Working Group. She also thanked and congratulated the teams of the Indigenous Peoples' Centre for Documentation, Research and Information (DoCip) and the Unrepresented Nations and Peoples Organization for their excellent organization and invaluable technical support to the participants of the Working Group.

XII. CONCLUSIONS AND RECOMMENDATIONS

A. Review of developments

165. The Working Group reaffirmed its view that the agenda item entitled "Review of developments" was a fundamental, constructive and positive part of its mandate. It noted in particular that this agenda item offered a unique opportunity for an exchange of views and information by Governments, indigenous peoples and United Nations organizations and specialized agencies about the situation of indigenous peoples and communities. The open and comprehensive debate contributed to better understanding and fruitful action.

166. The Working Group expressed its appreciation to all participants and especially those who had travelled at great expense to participate in the work of the annual session of the Working Group. It welcomed the participation of observer Governments and the detailed information they had provided concerning recent developments in their respective countries. It expressed appreciation for the participation of Senator John Herron, Minister of Aboriginal and Torres Strait Islander Affairs of Australia, and of Mr. Robert Watts, Assistant Deputy Minister of the Department of Indian Affairs and Northern Development of Canada.

167. The Working Group expressed its gratitude to WHO, WIPO and the ILO for their continuing constructive contribution to the discussions on and their positive action in support of indigenous peoples' rights. It also expressed its appreciation to the World Bank, UNDP and other intergovernmental and United Nations organizations for their policy initiatives relating to indigenous peoples as well as their contribution to the debates.

168. The Working Group further expressed its appreciation to the indigenous, governmental and non-governmental organizers of the many informal briefings, workshops, exhibitions and other information activities that took place outside the plenary session. It considered those activities to be a useful complement to its own programme.

169. The Working Group considered the constructive discussions on the principal theme, "Indigenous peoples and their relationship to land", as particularly helpful to its understanding of indigenous issues. It noted the continuing difficulties faced by indigenous peoples in the area of land. The Working Group underlined the valuable contribution to the solution of land rights problems being made by the study on indigenous peoples and their relationship to land undertaken by the Special Rapporteur, Ms. Erica-Irene A. Daes.

170. The Working Group decided to highlight the theme "Indigenous children and youth" at its eighteenth session with the understanding that the participants would continue to have an opportunity to provide information of a general character and on other important issues.

171. The Working Group decided to recommend to the Working Group on Arbitrary Detention to express concern about the conditions of the imprisonment and the deteriorating health of Leonard Peltier, in prison for more than 20 years.

B. Standard-setting activities

172. The Working Group reaffirmed its view that the agenda item on standard-setting also constituted a fundamental part of its mandate.

173. The Working Group noted the opinions expressed in relation to private-sector energy and mining concerns and agreed to continue to provide an opportunity under this agenda item for further consideration of this question.

174. The Working Group decided to invite OHCHR to organize, in collaboration with ILO, WTO and UNCTAD, a workshop on indigenous peoples, private sector natural resource, energy and mining companies, and human rights.

C. Study on treaties

175. The Working Group expressed its appreciation to the Special Rapporteur, Miguel Alfonso Martínez, for his final report on the study on treaties, agreements and other constructive arrangements between States and indigenous populations and endorsed its conclusions and recommendations. It congratulated him for thoroughly fulfilling his mandate after 10 years of intense work under conditions that were not always propitious.

176. The Working Group welcomed the in-depth discussion on the final report at its sixteenth and seventeenth sessions and took note of the critical remarks and observations, in particular those relating to the relevance of the concept of "indigenousness" in the contexts of present-day African, Asian and Pacific States.

177. The Working Group requested the Special Rapporteur t. submit to the secretariat, not later than 15 November 1999, the corrections and additions to the present English, French and Spanish versions of his final report that he considered necessary.

178. The Working Group recommended that the Special Rapporteur submit formally, in person, his final report to the Commission on Human Rights at its fifty-sixth session.

179. The Working Group recommended that the Sub-Commission request the Office of the High Commissioner for Human Rights to organize, not later than June 2000, a seminar on treaties, agreements and other legal instruments between indigenous peoples and States, to discuss possible follow-up to the study completed by the Special Rapporteur, and to explore ways and means of implementing the recommendations included in his final report.

D. Study on land rights

180. The Working Group congratulated the Special Rapporteur for her second progress report on the working paper on indigenous peoples and their relationship to land. It noted the proposal made by the Special Rapporteur for the need for further information from Governments and indigenous peoples from all regions.

181. The Working Group decided to recommend to the Sub-Commission that it request the transmittal of the second progress report to Governments, indigenous peoples and organizations and bodies of the United Nations system for comments, information and data.

E. Permanent forum

182. The Working Group expressed its appreciation to the Chairperson-Rapporteur of the ad hoc working group, Mr. Richard van Rijssen, for the constructive work his working group had accomplished. It also expressed its satisfaction with the comments and suggestions made by participants relating to the permanent forum for indigenous people within the United Nations system. It encouraged participants, in particular indigenous delegations, to provide their views and comments on the proposed permanent forum to the Office of the High Commissioner for Human Rights so that the information could be available for the second session of the working group.

F. International Decade of the World's Indigenous People

183. The Working Group welcomed the written information provided by participants relating to the International Decade and reaffirmed its willingness to assist the Coordinator of the Decade in the realization of the programme of activities of the Decade.

184. The Working Group expressed its gratitude for the contributions made by Governments and non-governmental organizations to the Voluntary Fund for the International Decade. It also appealed to Governments that had not contributed to the Voluntary Fund to do so.

185. The Working Group expressed its deep appreciation to the Government of Costa Rica for hosting the United Nations workshop on research and higher education institutions and indigenous peoples. It also encouraged the High Commissioner to consider organizing a follow-up workshop.

186. The Working Group expressed its grateful thanks and deep appreciation to the Sami Parliament, the Sami Council, the Åbo Akademi-Institute for Human Rights, and to the Government of Finland for the excellent organization of the workshop on indigenous peoples and the right to self-determination held in Inari, Finland, in June 1999.

187. The Working Group welcomed the developments in regard to the organization of the World Indigenous Nations (WIN) Games and invited the High Commissioner to consider how her Office could support this important initiative.

188. The Working Group recommended that the celebration of the International Day of the World's Indigenous People (9 August) be held on the fourth day of the Working Group at its eighteenth session so that all indigenous participants could attend.

G. Other matters

189. The Working Group decided to propose to the Sub-Commission and the Commission on Human Rights that a world conference on indigenous issues be held during the last year of the International Decade of the World's Indigenous People (2004) with a view to evaluating the Decade and considering future international policies and programmes which would effectively contribute to the reconciliation between Governments and the world's indigenous peoples.

190. The Working Group decided to recommend the appointment of a special rapporteur on indigenous issues to ask for and receive information from Governments, indigenous peoples and non-governmental organizations relating to the promotion and protection of the human rights of indigenous peoples.

191. The Working Group welcomed the continuing progress made by the Committee on Indigenous Health as well as the cooperation being developed between the Committee and the World Health Organization.

192. The Working Group paid tribute to the memory of Dr. Andrew Gray and Ms. Ingrid Washinawatok and expressed its deep condolences to their families, friends and colleagues for the loss of these two human rights activists and defenders of the indigenous cause.

193. The Working Group decided to recommend that its Chairperson-Rapporteur be invited to take part in all meetings in preparation for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and to the Conference itself. It also recommended that a working paper should be prepared on indigenous peoples and racism and racial discrimination by the Chairperson-Rapporteur for consideration by the preparatory committee for the World Conference.

194. The Working Group decided to consider the following items at its eighteenth session: "Review of developments - general statements, including land issues, education and health"; "standard-setting activities, including a review of indigenous peoples' relationship with natural resource, energy and mining companies"; "International Decade of the World's Indigenous People"; "World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance"; and "Other matters". The principal theme of the eighteenth session will be "Indigenous children and youth".

195. The Working Group encouraged the Office of the High Commissioner for Human Rights to make efforts to hold meetings on indigenous issues in Africa and Asia to provide a greater opportunity for the participation of peoples from those regions.

196. The Working Group decided to organize its work during its eighteenth session in such a way as to avoid holding extended meetings so as to secure the widest possible participation in the discussions on all items. Particular attention should be given in that respect to a fair and equitable distribution of the time available during the session among all the participants who might wish to take the floor on every agenda item.